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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/815,470

03/31/2004

Duane Kido

3214

6357

24353

7590

02/07/2005

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EXAMINER

MAMMEN, NATHAN SCOTT

ART UNIT

PAPER NUMBER

3671

DATE MAILED: 02/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/815,470

**Applicant(s)**

KIDO ET AL.

**Examiner**

Nathan S Mammen

**Art Unit**

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 11-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 11, 13, 14, 17, 18 and 20-22 is/are rejected.
- 7) ☒ Claim(s) 9, 12, 15, 16 and 19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 7/2/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 5-7, 8, 10, 11, 13, 14, 20-22 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,597,909 to Lauridsen, Sr.

The Lauridsen '909 patent discloses a wheeled (21, 22) handling system for vegetables with a root portion and a leafy portion. The handling system comprises a pair of counter-rotating rollers (50) with at least one roller having a spiral (52) adapted to move the vegetable along the pair of rollers. The other roller has a spiral also, and the spirals cooperate to pull the leafy portion down between the rollers while the root portion remains above the roller. See Fig. 4, and col. 4, lines 3-9.

Regarding claims 2-3: A cutting mechanism (T) comprising a cutting blade (61) severs the leafy portion from the vegetable. The rollers and the blade are generally horizontal so that the pair of rollers ejects the vegetable past the blade.

Regarding claims 5-7: The spirals are disclosed as being constructed of V-belting (col. 4, line 8). V-belting of this type typically is constructed of reinforced rubber; therefore, the spirals (and members) have both a rigidity and a flexibility.

Regarding claim 8: The system comprises a diving mechanism (54).

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Regarding claims 20-21: The method, as claimed, would be inherent as the normal and logical manner in which the system of the Lauridsen '909 patent would be used.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4, 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,597,909 to Lauridsen, Sr., in view of U.S. Patent No. 5,431,231 to Abe et al., cited by Applicant.

The Lauridsen '909 patent discloses the claimed invention, as stated in paragraph 2 above, except for the cutting mechanism comprising rotating cutting blades and grabbing disks. The Abe '231 patent teaches that it is known in the art to provide a vegetable topper with a cutting mechanism comprised of grabbing disks (25) and rotating cutting blades (26). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the system of the Lauridsen '909 patent with the cutting mechanism of the Abe '231 patent in order to provide an alternative means for cutting tops of vegetables.

***Allowable Subject Matter***

5. Claims 9, 12, 15, 16, 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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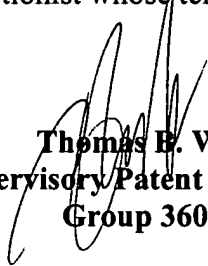
***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan Mammen whose telephone number is (703) 306-5959. The examiner can normally be reached Monday through Thursday from 6:30 a.m. to 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at (703) 308-3870. The fax number for this Group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-1113.



**Thomas B. Will**  
**Supervisory Patent Examiner**  
**Group 3600**

NSM  
2/3/05

Nathan S. Mammen